

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6718 of 1997

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For Approval and Signature:

Hon'ble THE ACTING CJ R.A.MEHTA and

MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

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HAJOORI & SONS

Versus

ASSISTANT COMMISSIONER  
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Appearance:

Shri D.D. Vyas, Senior Counsel with  
MS MAMTA R VYAS for Petitioner

MR KETAN A DAVE with Ms.Avni Mehta,  
for the respondents.  
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CORAM : THE ACTING CJ R.A.MEHTA and  
MR.JUSTICE N.N.MATHUR

Date of decision: 12/09/97

ORAL JUDGEMENT : (Per R.A. Mehta, Actg CJ)

Rule. At the request of the Court Ms.Avni S. Mehta and Shri Ketan A. Dave, learned advocates waive service of the rule on behalf of the respondents.

2. Since we are not deciding the matter on merits and the matter is pending before the appellate authority, it is considered appropriate to give following directions, at this stage herein after hearing the learned Central Government Standing Counsel.

3. In this matter, against the order in original, the petitioner has preferred appeal to the Appellate Authority, long ago along with stay application. However, stay application has not been dealt with so far by the Appellate Authority and in the meanwhile coercive recovery is being enforced.

4. In a similar situation, in the case of DCW and others v. Commissioner (Appeals) and others, reported in 38 (2) GLR 913, it is held that such stay applications must be decided expeditiously preferably within one month.

4. It is, therefore, directed that the Appellate Authority shall hear and decide the stay application expeditiously, preferably within one month from today. Till then coercive recovery shall not be effected. The Appellate Authority shall decide the stay application in accordance with law and without being influenced by this order.

5. In view of the aforesaid directions and the effective alternative remedy, this petition is not required to be entertained and is, therefore, dismissed. Rule is discharged subject to the aforesaid directions with no order as to costs.

(R.A. Mehta, Actg CJ)

12th September 1997 (N.N. Mathur, J.)

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